

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 6. ECONOMIC SECURITY

#### CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY SOCIAL SERVICES

*Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 746.) The Governor's Office authorized the notice to proceed through the rulemaking process on January 20, 2012.*

[R12-25]

#### PREAMBLE

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| Article 56  | Amend                           |
| R6-5-5601   | Amend                           |
| R6-5-5602   | Amend                           |
| R6-5-5603   | Amend                           |
| R6-5-5604   | Amend                           |
| R6-5-5605   | Amend                           |
| R6-5-5606   | Repeal                          |
| R6-5-5606   | Re number                       |
| R6-5-5606   | Amend                           |
| R6-5-5607   | Re number                       |
| R6-5-5607   | Amend                           |
| R6-5-5608   | Re number                       |
| R6-5-5608   | Amend                           |
| R6-5-5609   | Re number                       |
| R6-5-5609   | Amend                           |
| R6-5-5610   | Re number                       |
| R6-5-5610   | Amend                           |
| R6-5-5611   | Repeal                          |
| R6-5-5612   | Re number                       |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statutes (specific):**  
Authorizing statute: A.R.S. § 41-1954(A)(3)  
Implementing statute: A.R.S. § 8-807
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
Notice of Rulemaking Docket Opening: 17 A.A.R. 1305, July 15, 2011
- 4. The agency's contact person who can answer questions about the rulemaking:**  
Name: Beth Broeker  
Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, AZ 85005  
or

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Department of Economic Security  
1789 W. Jefferson St., Site Code 837A  
Phoenix, AZ 85007

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E-mail: bbroeker@azdes.gov  
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**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

This rulemaking will amend the rules related to the request and release of Child Protective Services information. It will also amend the rules associated with the fees for the copying of the requested materials. This will ensure compliance with A.R.S. § 8-807.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

There is minimal economic, small business or consumer impact. The majority of requests for CPS information involve a request for a redacted copy of the CPS report. From January 1, 2011 to November 18, 2011, the Child Abuse Hotline received 1,005 requests for redacted CPS reports from individuals about whom the report was made. The Department of Economic Security does not charge a copying fee for the release of redacted CPS reports.

The Department also does not charge a copying fee for requests for CPS information from a client or an attorney representing the client in a dependency, guardianship, or termination of parental rights proceeding. The Department received approximately 409 of these requests from January 1, 2011 to October 31, 2011 for Maricopa County.

The Department does, however, charge a copying fee for public records requests for CPS information. From August 1, 2010 to November 11, 2011, the Department received 247 public records requests for CPS information. These requests are usually made by the media, law firms representing clients, and individuals seeking contract-related information. The Department's copying fees for public records requests are \$1.00 for the first page; \$.25 for each additional page; and \$10.00 per CD/DVD if the CPS information already exists in an electronic format or \$10.00 per CD/DVD plus the actual cost to convert the CPS information to an electronic format if the information does not already exist in an electronic format.

The Department has received less than 10 public records requests where the requester paid per page for copying cost. The average size of these requests was six pages, or \$2.25 in copying cost. Due to the cost savings to the consumer, the majority of public records requesters pay the cost to copy the CPS information to an electronic format.

**9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:**

Name: Beth Broeker  
Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, AZ 85005  
or  
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1789 W. Jefferson St., Site Code 837A  
Phoenix, AZ 85007  
Telephone: (602) 542-6555  
Fax: (602) 542-6000  
E-mail: bbroeker@azdes.gov  
Web site: <http://www.azdes.gov>

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department does not plan to hold oral proceedings on this rule, unless a public hearing is requested within 30 days of the publication of this rule. All written comments on the rule and any requests for public hearing shall be made to the individual listed in item 4.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

Not applicable

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 6. ECONOMIC SECURITY**

**CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY**

**SOCIAL SERVICES**

**ARTICLE 56. CONFIDENTIALITY AND RELEASE OF CPS RECORDS INFORMATION**

Sections

R6-5-5601. Definitions

R6-5-5602. Scope and Application

R6-5-5603. Procedures for Requesting CPS Information

R6-5-5604. Procedures for Processing a Request for CPS Information

R6-5-5605. ~~Release of Information in Situations Requiring Immediate Action or Service to a Child~~ Procedures for Processing a Request for CPS Information from a Person or Entity Providing Services in Official Capacity

~~R6-5-5606. Release of Report and Investigation Findings~~

~~R6-5-5607. R6-5-5606. Release of Summary CPS Information to a Person Who Reported Suspected Child Abuse and Neglect~~

~~R6-5-5608. R6-5-5607. Release of CPS Information for a Research or Evaluation Project~~

~~R6-5-5609. R6-5-5608. Release of CPS Information to a Legislative Committee~~ Legislator or an Oversight Entity

~~R6-5-5610. R6-5-5609. Release of CPS Information to a State Official in a Case of Child Abuse, Abandonment, or Neglect that has Resulted in a Fatality or Near Fatality~~

~~R6-5-5612. R6-5-5610. Fees~~

~~R6-5-5611. Release of Information to a Person Who Requests Records and Files Concerning an Alleged Victim of Abuse, Neglect or Abandonment Who Has Died~~ Repealed

R6-5-5612. Renumbered

**ARTICLE 56. CONFIDENTIALITY AND RELEASE OF CPS RECORDS INFORMATION**

**R6-5-5601. Definitions**

The definitions contained in A.R.S. §§ 8-531, 8-201, ~~8-807~~ 8-801, R6-5-5501, and the following definitions apply in this Article:

1. ~~"ACYF" means the Administration for Children, Youth and Families, an organizational unit within the Division of Children, Youth and Families, Department of Economic Security.~~

1. "Abuse" means the same as in A.R.S. § 8-201(2).

2. "CASA" or "Court Appointed Special Advocate" means a person appointed under A.R.S. § 8-522.

~~2-3.~~ No change

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- 3-4. “Completed request” means a Request for Confidential Information written communication to the program or a form provided by the Department asking for CPS information with all information filled in completed as prescribed in R6-5-5603.
5. “Copying fee” means the final amount a requester is required to pay to the Department before the Department releases the requested CPS information.
- 4-6. “CPS” means Child Protective Services, a program within the Administration for Division of Children, Youth and Families (ACYF DCYF) to receive and investigate allegations of child maltreatment abuse and neglect and provide protective services as described in R6-5-5501(40) A.R.S. § 8-801(4).
5. “CPS Administrator” means the DES Administrator responsible for the operation of CPS, or that person’s designee, which may include the ACYF Field Operations Manager, the CPS District Program Manager (“DPM”), the CPS Assistance District Program Manager (“APM”) or the CPS Local Office Manager.
7. “CPS Information” means the same as in A.R.S. § 8-807(U)(1) and includes information contained in a hard copy or electronic case record, and both oral and written information.
8. “DCYF” means the Division of Children, Youth and Families within the Department of Economic Security.
- 6-9. No change
- 7-10. “Estimated processing copying fee” means an amount a requester must is required to pay to the Department before the Department copies and redacts requested CPS information records and files.
11. “FCRB” means the Foster Care Review Board established pursuant to A.R.S. § 8-515.01.
8. “Information” means data contained in a hard copy case file or electronic case record.
9. “Maltreatment” means alleged abuse, neglect, abandonment, or exploitation of a child.
12. “Neglect” means the same as in A.R.S. § 8-201(22).
13. “Oversight person” means those individuals and entities described in A.R.S. § 8-807(H) and any other individual or body as authorized by law.
- 10-14. “Person about whom a report is made who is the subject of CPS information” means an alleged abusive a caregiver, child or other person identified in the CPS report, or a child victim age 12 or older.
- 11-15. “Personally identifiable information” means information which that specifically identifies a protected individual and includes:
- a. No change
  - b. Date of birth;
  - b-c. Address Street address;
  - e-d. Telephone, or fax number, or e-mail address;
  - d-e. No change
  - e-f. No change
  - f-g. No change
  - g-h. No change
  - h-i. No change
  - i-j. No change
  - j-k. No change
  - k-l. No change
  - l-m. No change
  - m-n. Any other information that would permit another person to readily identify the subject of the CPS information.
12. “Processing fee” means the final amount a requester must pay to the Department for copying and redacting requested records and files, before the Department will release the copied records and files.
- 13-16. “Protected individual” means a living person who is the subject of a CPS investigation and includes:
- a. No change
  - b. No change
  - c. No change
  - d. No change
  - e. No change
  - f. The person who made the report of child maltreatment abuse or neglect, and
  - g. Any person whose health life or safety would be endangered by disclosure of CPS information.
- 14-17. “Redacting” means striking or blacking out personally identifiable information contained in CPS hard copy or electronic case records or files on protected individuals so that no one can read the information.
18. “Report” means an incoming communication containing an allegation that:
- a. A child is the subject of abuse or neglect;
  - b. A parent, guardian or custodian inflicted, may inflict, permitted another person to inflict, or had reason to know another person may inflict such abuse or neglect; and
  - c. Contains sufficient information to locate the child.
19. “Request” means a written communication for CPS information.

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~~15-20.~~ “Requester” means an individual or ~~organization~~ entity that has made a ~~public records~~ request for CPS information ~~from a CPS record or file.~~

~~16-21.~~ No change

~~17-22.~~ “Workday” means Monday through Friday excluding Arizona state holidays and mandatory furlough days.

**R6-5-5602. Scope and Application**

A. This Article governs ~~public records~~ requests for and release of CPS information ~~and all requests~~ made under A.R.S. § 8-807.

~~B. The Department shall handle any request or subpoena for information made by a party to a pending administrative proceeding, or civil, criminal, juvenile, probate, or domestic relations court proceeding, in accordance with the disclosure and discovery rules applicable to the particular proceeding or court.~~

B. CPS maintains information in accordance with federal laws under A.R.S. § 8-807.

**R6-5-5603. Procedures for Requesting CPS Information**

A. A person who wishes to obtain CPS information ~~pursuant to~~ under A.R.S. § 8-807 shall comply with the requirements of this Section, and any applicable limitations and conditions in R6-5605; ~~and R6-5-5607, R6-5-5608, and R6-5-5609.~~

1. This Section does not apply to a person or entity entitled to receive CPS information to:

- a. Meet its duties to provide for the safety, permanency, and well-being of a child;
- b. Provide services to the child or family to strengthen the family;
- c. Enforce or prosecute violations of child abuse or neglect laws; or
- d. Provide CPS information to a defendant as required by an order of the criminal court.

2. This Section also does not apply to juvenile, domestic relations, family or conciliation courts, the parties or their attorneys in a dependency, guardianship, or termination of parental rights proceeding, the FCRB, a CASA, or oversight entities.

B. The requester shall send the Department a completed ~~information written~~ request or use the form, ~~as provided in subsections (C) and (D) by the Department.~~ The request form shall include the following information:

1. No change

2. ~~Name and title of the person signing the form;~~

~~3-2.~~ No change

- a. No change
- b. No change
- c. No change
- d. No change

~~4-3.~~ Any other data that the requester believes will be likely to assist the Department in identifying the CPS information requested, such as including the following:

- a. The name of the child’s siblings;
- b. The child’s ~~social security~~ Social Security number;
- c. The name of the CPS Specialist handling the case; and
- d. The location of the alleged maltreatment;

~~5- A description of the specific information needed;~~

~~6- A statement of purpose for which the information is needed;~~

~~7- The notarized signature of the requester, unless the information is released pursuant to a court order; and~~

~~8- The address to which the requested information is to be mailed, or an indication of another method for handling the response.~~

~~C. The requester shall send the request to a local Department office or to the address indicated on the form.~~

C. Before releasing CPS information pursuant to this Section, the Department shall determine that the person or entity requesting the CPS information is a person or entity entitled to receive the CPS information under this Article and A.R.S. § 8-807.

~~D. A person seeking information pursuant to A.R.S. § 8-807(C)(10), (D), or (F), shall also send the Department a processing fee in an amount determined under R6-5-5612.~~

**R6-5-5604. Procedures for Processing a Request for CPS Information**

A. Upon receipt of a request for CPS information, the Department shall determine whether the request is complete. If the request is incomplete, the Department shall either:

1. Return the form request to the requester with a statement explaining the additional information the Department needs to process the request; or
2. Contact the requester to obtain the missing information.

B. Upon receipt of a completed request, the Department shall stamp the receipt date on the form request. The receipt date is the day ~~that the Department receiving office designated on the form actually~~ receives the completed request.

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- C. Within 30 ~~days~~ workdays of the receipt date, the Department shall provide the requester with one of the following written responses:
1. A statement that the requested CPS information does not exist;
  2. The requested CPS information;
  3. A statement that the Department cannot provide the requested CPS information within 30 ~~days~~ workdays, the reason for the delay, and the anticipated time-frame for response; or
  4. A statement that the Department cannot legally release the requested CPS information, with the statutory citation and the reason for the denial.

**R6-5-5605. ~~Release of Information in Situations Requiring Immediate Action or Service to a Child~~ Procedures for Processing a Request for CPS Information from a Person or Entity Providing Services in Official Capacity**

- A. ~~The Department shall release CPS information without obtaining the fee required by R6-5-5610~~ When when a person or entity entitled to receive records or file under A.R.S. § 8-807(C) CPS information requires information to: from a record or file in order to take immediate action on behalf of, or render service to, a child who is or may be the victim of maltreatment, the Department shall release the information without obtaining the form or fee required by R6-5-5603.
1. Meet its duties to provide for the safety, permanency, and well-being of a child;
  2. Provide services to the child or family to strengthen the family;
  3. Enforce or prosecute a violation of child abuse or neglect laws;
  4. Provide CPS information to a defendant as required by an order of the criminal court; or
  5. Provide CPS information to:
    - a. A juvenile, domestic relations, family or conciliation court;
    - b. The parties or their attorneys in a dependency, guardianship, or termination of parental rights proceeding;
    - c. The FCRB;
    - d. A CASA; or
    - e. An oversight entity.
- B. Before releasing CPS information under pursuant to this Section, the Department shall ~~verify~~ determine that the person requesting CPS information is a person entitled to receive CPS information under A.R.S. § 8-807(C) this Section.
- ~~C. The Department shall:~~
1. ~~Obtain the name and telephone number of the requester;~~
  2. ~~Call the requester to verify:~~
    - a. ~~That the person requesting information is a person entitled to receive information under A.R.S. § 8-807(C); and~~
    - b. ~~That the requester needs the information for a purpose described in subsection (A).~~

**~~R-6-5-5606. Release of Report and Investigation Findings~~**

- ~~A. Under A.R.S. § 8-807(E), a person about whom a report is made who is not a party in a dependency or termination of parental rights proceeding may obtain a copy of a CPS report and investigation findings, including the following persons:~~
1. ~~An adult about whom a CPS report has been made;~~
  2. ~~A child victim age 12 or older;~~
  3. ~~A child's parent or legal guardian.~~
- ~~B. The person requesting a copy of the CPS report and investigation findings shall submit a completed information request form which shall include the information listed in R-5-5603(B). Within 30 days of receipt of a completed information form, the Department shall provide the requester with either:~~
1. ~~A copy of the report and investigation findings, after redacting information as required by A.R.S. § 8-807(E) and (G);~~  
~~or~~
  2. ~~A written response indicating that the Department does not have the requested report or investigation findings.~~

**~~R6-5-5607. R6-5-5606. Release of Summary CPS Information to a Person Who Reported Suspected Child Abuse and Neglect~~**

- A. A person who reports alleged child ~~maltreatment~~ abuse or neglect to CPS may contact CPS to ~~determine the outcome of the report as permitted under A.R.S. § 8-807(H)~~ obtain a summary of the outcome of the investigation, as permitted by A.R.S. § 8-807.
- B. After receiving a request and before releasing CPS information, the Department shall ~~verify~~ determine that the person requesting CPS information was the person who made the report as follows:
1. ~~Obtain the name and telephone number of the requester; and~~
  2. ~~Compare the requester's name with the name of the person listed as the reporting source reporter on the CPS report; and~~
  3. ~~Call the requester and advise whether the Department can legally honor the request.~~
- ~~C. After verifying the identity of the requester, CPS shall give the person a summary of the outcome with the following information:~~

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1. Disposition of the report;
  2. Investigation findings, if available; and
  3. A general description of the services offered or provided to the child and family.
- C.** After determining the identity of the requester, the Department shall call the requester and advise whether the Department has statutory authority to provide the requested CPS information.
- D.** If the requester is entitled to receive the requested CPS information, CPS shall give the person a summary of the outcome with the following CPS information:
1. Disposition of the report;
  2. Investigation findings, if available; and
  3. A general description of the services offered or provided to the child and family.

**~~R6-5-5608.~~ R6-5-5607. Release of CPS Information for to a Research or Evaluation Project**

- A.** A person seeking CPS information for a research or evaluation project shall send a written request to the Department and provide information required for a complete request, under R6-5-5603. A complete research request shall also include the following information:
1. If the person works for a research organization:
    - a. The name of the organization, and
    - b. The organization's mission;
  2. A description of the research or evaluation project, and including how the results of the project will improve the child protection system;
  3. A description of the plan for maintaining the confidentiality of personally identifiable information and disseminating the results of the project; and
  - ~~3-4. No change~~
- B.** Upon Within 30 workdays of receipt of a completed request from a research requester, the Department shall advise:
1. Advise whether the Department will can legally honor the request provide the requested CPS information, and
  2. Inform the requester of the estimated amount of the processing copying fee required under R6-5-5612 R6-5-5610, and
  3. Inform the requester of the expected time-frame for providing the requested CPS information.
- C.** Upon receipt of the processing copying fee, the Department shall provide the requester with the expected time-frame for releasing the requested CPS information.

**~~R6-5-5609.~~ R6-5-5608. Release of CPS Information to a Legislative Committee Legislator or an Oversight Entity**

- A.** A legislative committee entitled to receive information under A.R.S. § 8-807(C)(12), shall send a written request for information to the Department Director, or the Director's designee.
- B.** The written request shall include:
1. The name of the committee;
  2. The purpose for which the information is sought; and
  3. The date by which the committee needs the information.
- C.** The Department Director, or the Director's designee, shall evaluate all requests for information and determine whether to release information to a legislative committee.
- D.** When releasing information to a legislative committee, the Department shall send the committee written notice that the information is confidential and shall not be further disclosed.
- A.** A person or entity seeking CPS information to provide oversight of child protective services shall send a written request to the Department and include the following information:
1. The name of the person seeking the information;
  2. The purpose of the request and its relationship to the person's official duties; and
  3. The person's signature, confirming that the person understands the CPS information shall not be further disclosed unless authorized by A.R.S. § 8-807.
- B.** A legislator or committee of the legislature seeking CPS information to perform official duties shall send a written request to the presiding officer of the body of which the state legislator is a member and include the name of the person whose case record is to be reviewed and any other information that will assist the Department in locating the record. The legislator shall also sign the request, confirming that the legislator understands that the CPS information shall not be further disclosed unless authorized by A.R.S. § 8-807. The presiding officer shall forward the request to the Department within five workdays of receiving the request.
- C.** The copying fee required under R6-5-5610 does not apply to this Section.
- D.** Within 10 workdays of receiving the request, the Department shall provide the requester with one of the following written responses:
1. A statement that the requested CPS information does not exist;
  2. The requested CPS information;

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3. A statement that the Department cannot provide the requested CPS information within 10 workdays, the reason for the delay and the anticipated time-frame for response; or
4. A statement that the Department cannot provide the requested CPS information, with the statutory citation and the reason for denial.

**~~R6-5-5610.~~ R6-5-5609. Release of CPS Information to a State Official in a Case of Child Abuse, Abandonment, or Neglect that has Resulted in a Fatality or Near Fatality**

- A.** ~~An Arizona state official entitled to receive information under A.R.S. § 8-807(C)(15) shall send a written request to the Department Director.~~
- B.** ~~The Director or the Director's designee, shall verify:~~
  1. ~~That the requesting state official is:~~
    - a. ~~Responsible for administration of CPS; or~~
    - b. ~~Responsible for oversight of CPS enabling or appropriating legislation; and~~
  2. ~~That the requesting state official is seeking the information to carry out official functions.~~
- A.** An individual who requests CPS information under A.R.S. § 8-807 concerning a case of child abuse, abandonment, or neglect that resulted in a fatality or near fatality, shall send a written request to the Department.
- B.** Upon receipt of the request, the Department shall stamp the receipt date on the request and begin gathering the requested CPS information.
- C.** The Department shall notify the requester in writing of the estimated copying fee. If the requester does not want to proceed, the requester shall notify the Department within 72 hours to cancel the request. If this notification is oral, the requester shall confirm the cancellation in writing.
- D.** The requester shall pay the estimated copying fee before the Department copies any CPS information.
- E.** After receipt of the final copying fee, the Department shall provide CPS information consistent with A.R.S. § 8-807.

**~~R6-5-5612.~~ R6-5-5610. Fees**

- A.** ~~If a record production will result in a processing fee, the Department shall notify the requester of the estimated processing fee before copying any records. Within 10 days of the date of the estimate, the requester shall send the fee or advise the Department to terminate the request.~~
- B.** ~~When providing information to the persons entitled to receive information under A.R.S. § 8-807(C)(10), (D), or (F), the Department shall charge a fee of 25¢ per page.~~
- C.** ~~The fee per page covers the partial cost of:~~
  1. ~~Staff time to research and collect the requested information;~~
  2. ~~Staff time to review and redact information pursuant to A.R.S. § 8-807(D), (F), and (G);~~
  3. ~~Administrative staff time to review and prepare the information to be submitted; and~~
  4. ~~Costs of copying supplies such as paper, toner and use of equipment.~~
- D.** ~~The fee per page applies to both persons who obtain copies of files and persons who request to review files that must be redacted prior to review, under A.R.S. § 8-807(C)(10), (D), or (F).~~
- E.** ~~After the Department has prepared information for release, the Department shall prepare an itemized billing statement showing the document preparation costs and the fees the requester must pay before the Department can release the records and files.~~
- F.** ~~The Department shall refund any prepaid estimated processing fees that exceed the final processing fee.~~
- A.** If the Department determines a request for CPS information will result in a copying fee, the Department shall notify the requester of the estimated fee before copying any CPS information.
- B.** Unless otherwise exempted by this Chapter, the Department shall charge a copying fee at the current rate set by the Department, as provided on the DES web site at <http://www.azdes.gov>.
- C.** The copying fee applies to both paper and electronic copies. If the CPS information does not already exist in an electronic format, additional fees shall apply to copy the CPS information to an electronic format.
- D.** The Department shall notify the requester in writing of the final copying fee.
- E.** The Department shall reimburse the requester if final copying costs are less than the estimated copying fee.

**~~R6-5-5611.~~ Release of Information to a Person Who Requests Records and Files Concerning an Alleged Victim of Abuse, Neglect or Abandonment Who Has Died Repealed**

- A.** ~~An individual who requests records and files under A.R.S. § 8-807(C)(13), concerning an alleged victim of abuse, neglect or abandonment who has died, shall send the Department a completed request on each child.~~
- B.** ~~Upon receipt of the request form the Department shall stamp the date and time of receipt and complete a record and location search.~~
- C.** ~~The Department shall notify the requester in writing of the estimated processing fee required under R6-5-5612. If the requester does not want to proceed, the requester shall send the Department written notice to cancel the search.~~
- D.** ~~Upon receipt of a cancellation notice, the Department shall return the estimated processing fee.~~
- E.** ~~Upon receipt of the estimated processing fee, the Department shall prepare the records and files within 30 work days from~~



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- receipt of the estimated processing fee and notify the requester of the final processing fee for records and file preparation.
- ~~F. After receipt of the final processing fee, the Department shall notify the requester and send the redacted records and files as indicated on the original request.~~

R6-5-5612. **Renumbered**

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

CHAPTER 5. DEPARTMENT OF ECONOMIC SECURITY

SOCIAL SERVICES

*Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 746.) The Governor's Office authorized the notice to proceed through the rulemaking process on January 19, 2012.*

[R12-26]

**PREAMBLE**

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**

Article 6	Repeal
R6-13-601	Repeal
R6-13-602	Repeal
R6-13-603	Repeal
R6-13-604	Repeal
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing Statutes: A.R.S. § 41-1954(A)(3)

Implementing Statutes: Not applicable
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 931, June 11, 2010

Notice of Rulemaking Docket Opening: 17 A.A.R. 1312, July 15, 2011
- 4. The agency's contact person who can answer questions about the rulemaking:**

Name:	Beth Broeker
Address:	Department of Economic Security P.O. Box 6123, Site Code 837A Phoenix, AZ 85005
	or
	Department of Economic Security 1789 W. Jefferson St., Site Code 837A Phoenix, AZ 85007
Telephone:	(602) 542-6555
Fax:	(602) 542-6000
E-mail:	bbroeker@azdes.gov
Web site:	http://www.azdes.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

This rulemaking is in response to a five-year review report on 6 A.A.C. 13, approved by Council on January 5, 2010. The rules in Title 6, Chapter 13, Article 6 are obsolete. The state of Arizona established the Optional State Supplemental Payments Program (SPP) at A.R.S. § 26-252 in 1974. The SPP replaced former federal assistance for the aged, blind, and disabled. A.R.S. § 26-252 directed the Department to make monthly payments for eligible persons for certain in-home services, such as housekeeping services. The Department established the rules in Title 6, Chapter

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13, Article 6 to implement the SPP. In 2005, A.R.S. § 26-252 was repealed. With the repeal of A.R.S. § 26-252, the Department lost the authority under which the administrative rules at Article 6 were promulgated.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The repeal of these rules will eliminate confusion, because the rules are obsolete.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Beth Broeker

Address: Department of Economic Security  
P.O. Box 6123, Site Code 837A  
Phoenix, AZ 85005

or

Department of Economic Security  
1789 W. Jefferson St., Site Code 837A  
Phoenix, AZ 85007

Telephone: (602) 542-6555

Fax: (602) 542-6000

E-mail: bbroeker@azdes.gov

Web site: <http://www.azdes.gov>

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

None

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 6. ECONOMIC SECURITY

CHAPTER 13. DEPARTMENT OF ECONOMIC SECURITY  
STATE ASSISTANCE PROGRAMS

**ARTICLE 6. SUPPLEMENTAL PAYMENTS PROGRAM REPEALED**

Section

- R6-13-601. Definitions Repealed  
R6-13-602. Limitations Repealed  
R6-13-603. Coordination of Services with Arizona Long-term Care System Repealed  
R6-13-604. Right of Appeal Repealed

**ARTICLE 6. SUPPLEMENTAL PAYMENTS PROGRAM REPEALED**

**R6-13-601. Definitions Repealed**

For the purpose of the Supplemental Payments Program, the following definitions apply:

1. "Case manager" means a person who is responsible for applying the uniform functional assessment process to determine a client's need for services and administering the services for eligible clients.
2. "Essential shopping and errands" means shopping for and storing household supplies and medicines.
3. "Home health aid" means providing personal care and medical maintenance, continued treatment, or supervision required by applicable laws and regulations, within the person's place of residence.
4. "Housekeeping services" means providing help with housekeeping, housework, laundry, essential shopping, errands, and meal preparation.
5. "Housework" means assistance in the performance of activities related to routine household maintenance including the following tasks: cleaning walls, floors, bathrooms, windows, kitchen, and appliances; washing dishes; dusting; changing linens; and making beds. It may also include yard work, such as cleaning and mowing yard and hauling away debris; hauling water for daily use; gathering and hauling firewood for household heating or cooking; caring for livestock used for personal consumption; caring for a garden used for personal consumption; and turning heating and cooling systems on and off.
6. "Laundry" means washing, drying, and folding or hanging clothing and household linens. Ironing is included if clothes are too wrinkled to be presentable.
7. "Meal preparation" means planning, cooking, and storing food.
8. "Medical finding" means verification by a medical practitioner of a medical condition which may necessitate visiting nurse service or home health aid.
9. "Need for services" means the person has been determined by the Department to be functionally impaired in sufficient degree as to require the designated service. A person does not "need" the specified service when the facility in which the person resides or receives care provides the specified service.
10. "Payable from another source" means payments from Medicare, Arizona Health Care Cost Containment System, private insurance, Medicaid, or other private or public funds.
11. "Service provider" means an entity contracting with the state of Arizona to provide housekeeping services, home health aid services, or visiting nurse service.
12. "Uniform functional assessment process" means a process approved by the Department which measures a person's need for services because the person cannot perform activities of daily living based upon criteria which include physical or mental illness, prescribed medication, sensory impairment, disability, incapacity, psychosociological skills, interpersonal skills, assistance devices required, and available support systems.
13. "Visiting nurse service" means providing medical maintenance, continued treatment, or supervision of a treatment plan by a registered nurse or a licensed practical nurse as required by applicable laws, regulations and rules within the individual's place of residence.

**R6-13-602. Limitations Repealed**

- A.** Any person eligible for supplemental payments as a resident of a private or county nursing home shall be ineligible to receive supplemental payments from the Department for housekeeping services, visiting nurse service, or home health aid.
- B.** Any person eligible for supplemental payments as a resident of a licensed supervisory care home or certified adult foster care home shall be ineligible to receive supplemental payments from the Department for housekeeping services.
- C.** Housekeeping services. A payment of \$70 per month shall be made by the Department to or on behalf of a person who is determined to need such services, who is eligible for and receives Supplemental Security Income, and who is approved eligible by the Department through a uniform functional assessment process approved by the Department. The Department shall determine whether the person, because he has a physical or mental illness or impairment, needs at least one of the following services: housework, laundry, essential shopping and errands, or meal preparation. Resources otherwise available to the client shall be considered in determining need.
1. Recipients of direct payment for housekeeping services shall be subject to monitoring and reassessment by the Department.
  2. The recipient or the recipient's legal representative shall notify the Department, within 10 calendar days, of any

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change in income, resources, or medical need.

3. Supplemental payments for housekeeping services shall not be made to or for the benefit of an otherwise eligible person who resides in a publicly or privately operated residence that provides house cleaning, laundry, essential shopping, errands, and meals as part of the basic service.

**D.** Payments for visiting nurse service or home health aid shall be made only to the service provider; payment to the eligible recipient is not permissible.

**R6-13-603. Coordination of Services with Arizona Long-term Care System Repealed**

**A.** Upon receipt of notice from Arizona Health Care Cost Containment System that a person currently receiving services under this Article has applied for and been found eligible for Arizona Long-term Care System services, the Department shall notify the assigned case manager so that the information can be verified with the client.

**B.** The case manager and the client shall provide information to the Department, on a form supplied by the Department, that services from Arizona Long-term Care System are being received by the client. The form shall include the following information:

1. Name, address and Social Security number;
2. The date that services from Arizona Long-term Care System began;
3. Current state Supplemental Payments Program funds or services received;
4. Case manager's signature, signifying that the contents of the form are true to the best of the case manager's knowledge;
5. Client's signature; or, if the client cannot sign, the signature of an authorized representative; or the client's mark which is witnessed, with the witness' signature. If the client refuses to sign, this shall be noted;
6. The expected date of termination of state Supplemental Payments.

**C.** The client shall be informed, through a written notice, when the Department intends to terminate payments or services under the provisions of this Article. The case manager shall provide at least 10 days' notice before termination of benefits following receipt of notice that Arizona Long-term Care services have begun.

**R6-13-604. Right of Appeal Repealed**

If a client is dissatisfied with an action or decision affecting the client under this Article, the client has the right to appeal under the provisions of R6-13-1208. For purposes of this Article "local office" or "district office" as set forth in R6-13-1208 means Aging and Adult Administration.